

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Frederick Leroy Crandall,

Crim. No. 02-190 (PAM)

Petitioner,

v.

ORDER

United States of America,

Respondent.

This matter is before the Court on the Government's Response to Petitioner's Rule 59(e) Motion. The Government did not address the merits of Petitioner's contentions in its response, arguing that Rule 59(e) is an inappropriate vehicle for the challenge Petitioner raises because the Rule 59(e) Motion "simply restates the same arguments [Petitioner] raised and lost in his Section 2255 Motion." (Gov't's Opp'n Mem. (Docket No. 43) at 3.)

But one day after the Court denied Petitioner's § 2255 Motion, the Supreme Court issued Mathis v. United States, 136 S. Ct. 2243 (2016). Mathis held that Iowa's burglary statute is broader than the generic definition of burglary and therefore is not a predicate crime for purposes of the Armed Career Criminal Act sentence enhancement. Petitioner's § 2255 Motion raised nearly the identical issue, but with respect to Minnesota's burglary statute. Thus, Mathis may be directly applicable to Petitioner's § 2255 claim, and his Rule 59(e) Motion does not "simply restate" his previous arguments.

The Court will consider the merits of Petitioner's Rule 59(e) Motion in light of Mathis. However, the Court requires a substantive response to that Motion from the Government to fully elucidate the issues raised. Accordingly, **IT IS HEREBY ORDERED that:**

1. On or before September 26, 2016, the Government shall file a substantive response in light of Mathis to the issues raised in the § 2255 Motion and in the Rule 59(e) Motion; and
2. Petitioner may file a reply to the Government's response by October 17, 2016.

Dated: Monday, September 12, 2016

s/ Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge